



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket Number USCG-2022-0375]

RIN 1625-AA00

### Safety Zone- Keeweenaw Waterway; Houghton, MI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for Bridgefest 2022 in the Keeweenaw Waterway located in Houghton, MI. This action is necessary to protect participants and spectators during the Bridgefest Boat Parade and Bridgefest Water Ski Show. During the enforcement period, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or their designated on-scene representative.

**DATES:** This rule is effective from 2 p.m. through 10 p.m on June 18th, 2022.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2022-0375 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this notice of enforcement, call or email LTJG Joseph R. McGinnis, telephone 218-725-3818, email [DuluthWWM@uscg.mil](mailto:DuluthWWM@uscg.mil).

### SUPPLEMENTARY INFORMATION:

#### I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security

FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

## **II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the event was made with short notice to USCG.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential safety hazards associated with a triggering event from the water ski show and boat parade.

## **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2. The Captain of the Port Duluth (COTP) has determined that potential hazards associated with this ski and boat parade event on June 18, 2022, will be a safety concern for anyone within the safety zone. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the event occurs

## **IV. Discussion of the Rule**

This rule establishes a safety zone from 2 p.m. through 10 p.m. on June 18, 2022.

All waters of the Keweenaw Waterway in Hancock, MI and Houghton, MI within the enforcement area that starts at 47°07'23.5"N 88°35'21.7"W stretches east to 47°07'28.3"N 88°33'31.7"W, goes south to 47°07'23.1"N 88°33'32.6"W, then west 47°07'16.8"N 88°35'18.4"W and finally up north back to 47°07'23.5"N 88°35'21.7"W. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

## **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the fact that there is little commercial traffic on the Portage Canal and all commercial traffic has been in contact with the event coordinator stating they will not be getting underway that day. Coast Guard can be contacted VHF Channel 16 for any discrepancies or hazards found during the event.

### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their

fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit near the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

#### *C. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### *D. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only 8 hours that will prohibit entry of non-event vessels within the enforcement area that starts at 47°07'23.5"N 88°35'21.7"W stretches east to 47°07'28.3"N 88°33'31.7"W, goes south to 47°07'23.1"N 88°33'32.6"W, then west 47°07'16.8"N 88°35'18.4"W and finally up north back to 47°07'23.5"N 88°35'21.7"W. There is no fauna, flora, or ecosystem of concern that is in the vicinity of the display that will be catastrophically effected during a 30 minute firework show. It is categorically excluded from further review under paragraph L[60(a)] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

#### **List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

**PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

1. The authority citation for part 165 continues to read as follows:

**Authority:** 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1, Revision No. 01.2.

Add § 165.T09-0375, to read as follows:

**§ 165.T09-0375 Safety Zone; Keeweenaw Waterway, Houghton, MI.**

(a) *Location.* The following area is a safety zone: All waters of the Keweenaw Waterway in Hancock, MI and Houghton, MI within the enforcement area that starts at 47°07'23.5"N 88°35'21.7"W stretches east to 47°07'28.3"N 88°33'31.7"W, goes south to 47°07'23.1"N 88°33'32.6"W, then west 47°07'16.8"N 88°35'18.4"W and finally up north back to 47°07'23.5"N 88°35'21.7"W. These coordinates are based on North American Datum 83, NAD83.

(b) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by calling Station Portage at 906-482-1520. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(c) *Enforcement period.* This section will be enforced from 2 p.m. through 10 p.m. on June 18, 2022.

Dated: May 17, 2022.

F. M. Smith,

CDR, U.S. Coast Guard,

Captain of the Port Duluth.

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